

REMARKS

Receipt of the office action mailed December 17, 2004 is acknowledged. Claims 1-20 are pending in the application, with claims 16-20 standing withdrawn. Claims 1-20 have been rejected under the judicially created doctrine of obviousness-type double patenting over Applicant's U.S. Patent 6,644,448. Claim 15 has been rejected for being indefinite. Claims 1-4, 10-12, and 15 have been rejected as being obvious over Tiderman in view of Rekuc. Claims 1-6 and 10-14 have been rejected as being obvious over Tiderman in view of Christie. Claims 7-9 have been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form. In keeping with the foregoing amendments and the following argument, reconsideration and allowance is respectfully requested.

In response to the objection to the specification, section 608.01(o) of the MPEP makes it abundantly clear that the "the meaning of every term used in any of the claims should be apparent from the descriptive portion of the specification with clear disclosure as to its import;" Applicant points out that numbered paragraph 39 states, in part, "the sidewall 14a of the first upper compartment 14 is an extension of the sidewall 12a of the lower compartment." Based on this disclosure, Applicant is hard pressed to understand the Examiner's objection that the specification provides no antecedent basis for the term "extended portion" or that the meaning of the claim term is not clear or apparent from the specification. Nevertheless, applicant has made a clarifying amendment to the specification thus overcoming the objection.

In response to the obviousness-type double pending rejection, a Terminal Disclaimer is enclosed.

Applicant has updated the Cross Reference to Related Application section of the specification in accordance with the Examiner's request.

In response to the objection to claims 7-9, applicant has rewritten claim 7 in independent form to include all the limitations of base claim 1. Accordingly, claim 7 is in allowable form, as are claims 8 and 9.

Any rejection of claim 1 based even in part Tiderman must be withdrawn. Claim 1 positively recites, in part, a sidewall... formed of the same contiguous piece of flexible fabric material... [and] ... defining a first hinge line. Thus, it is apparent that the hinge line is

defined by a contiguous piece of flexible fabric that forms part of the sidewall of the primary compartment as well as part of the sidewall of the relevant upper compartment.

By comparison, Tiderman uses a pair of hinges 14 (shown in phantom in Fig. 1) to pivotally join the upper compartments to the lower compartment. The hinge is expressly claimed (claims 1 and 2 of Tiderman). A hinge is not a piece of flexible fabric. In order to make the proposed combination, one would have to discard the hinge. No suggestion has been supplied for deleting this expressly claimed item, nor could such a modification be made in any event without destroying the express teachings of Tiderman or without using Applicants' disclosure as a template. Further, by using hinges as opposed to flexible fabric, Tiderman teaches directly away from the claimed invention. Thus, there cannot be a *prima facie* case of obviousness based even in part on the reference, and the rejection must be withdrawn. Accordingly, claim 1 is in allowable form. Further, the claims depending from claim 1 are also in allowable form.

Claim 10 has been amended to positively recite, in part, fabric compartments, and first and second hinges, with each hinge formed at least in part by flexible fabric and pivotally joining the first or second upper compartment to the lower compartment along a hinge line.

Once again, by comparison, Tiderman uses a pair of hinges 14 to pivotally join the upper compartments to the lower compartment. The hinge is expressly claimed (claims 1 and 2 of Tiderman). A hinge is not a piece of flexible fabric. In order to make the proposed combination, one would have to discard the hinge. Again, no suggestion has been supplied for deleting this expressly claimed item, and any deletion would destroy the express teachings of Tiderman, or would require using Applicants' disclosure as a template. Moreover, Tiderman has numerous wooden components and makes repeated references to being "rigid" and the compartments cannot be considered "fabric." Thus, Tiderman again teaches directly away from the claimed invention. Simply put, there cannot be a *prima facie* case of obviousness based even in part on the reference, and the rejection must be withdrawn. Accordingly, claim 10 is in allowable form. Further, the claims depending from claim 10 are also in allowable form.

In view of the foregoing the above-identified application is in condition for allowance. In the event there is any remaining issue that the Examiner believes can be

resolved by a telephone conference, the Examiner is respectfully invited to contact the undersigned attorney at (312) 474-6612.

Please charge the fee in the amount of \$100 for the additional independent claim to our Deposit Account No. 13-2855, under Order No. 29864/38509 from which the undersigned is authorized to draw. No other fees other than the Terminal Disclaimer fee referenced in a separate paper are due with this response.

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Respectfully submitted,

By 

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